IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD
(Special Original Jurisdiction)
THURSDAY, THE EIGHTH DAY OF JULY
TWO THOUSAND AND FOUR
PRESENT
THE HON'BLE MR JUSTICE K.C. BHANU
WRIT PETITION NO : 11530 of 2004

Between:

S.Mahaboob, S/o.Akbar Sab,
R/o.D.No.20-21/1, Kondapet,
Rajeevnagar, Done, Kurnool Dist.

..... PETITIONER

AND

1 The Depot Manager,APSRTC, Kurnool-I
Depot, Kurnool, Kurnool Dist.
2 The Deputy Chief Traffic Manager,
APSRTC, Kurnool Region Kurnool.
3 The Regional Manager,APSRTC,
Kurnool Region, Kurnool.

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue a writ, order or direction more particularly one in the nature of writ of mandamus or any other appropriate writ, declaring the action of the 1st respondent in imposing a major penalty of deferment of two annual increments of the petitioner vide his proceedings No.03/2(10)/97-KNL-I dt.7-2-98 without conducting any enquiry and confirming the same by the 2nd and 3rd respondents herein vide their proceedings No.st/20(288)/98-Dy, CTM, dated 8-1-1998 and PA/19(139)/99-RMO dt.20-7-1999 respectively as illegal, arbitrary and in violation of principles of natural justice and in violation of Art, 14 and 21 of the Constitution of India and consequently direct the respondents to add two annual increments to the pay of the petitioner and pass necessary orders.

Counsel for the Petitioner: S.SURENDRA KUMAR

Counsel for the Respondents: MR.P.VINAYAKA SWAMY

The Court at the admission stage made the following :

ORDER:

A charge sheet was issued to the petitioner, for driving the vehicle bearing registration No. AP 9-Z-9698 in a rash and negligent manner on 06.04.1997 and causing the accident, wherein a girl by name Ramanamma died on the spot, for which the petitioner gave an explanation. Having not satisfied with the explanation, the disciplinary authority imposed a penalty of deferment of two annual increments with cumulative effect vide proceedings No.03/2(10)/97-KNL-I, dated 07.02.1998. Against the said penalty, the present writ petitioner preferred an appeal before the 2nd respondent, who rejected the same, by his proceedings No.St/20(288)/98-D dated 08.01.1999. As against that proceedings, the petitioner filed a review petition, but the same was also rejected by the 3rd respondent by his proceedings No.PA/19(139)/99-RMO dated 20.07.1999. Questioning the same, the present writ petition is filed.

Learned counsel for the petitioner contended that without conducting any enquiry, imposing a major penalty of deferment of two annual increments with cumulative effect is not sustainable under law and therefore, he prays to set-aside the punishment. He also contends that instead of remanding back the matter to the appropriate authority, he prays to impose a minor penalty.

On the other hand, the learned Standing counsel appearing for the respondents opposed the application.

It is not in dispute that imposition of major penalty requires conducting of regular departmental enquiry. Admittedly, in this case no enquiry was conducted for the charge levelled against the petitioner. After serving the charge sheet and after calling for an explanation, the punishment of deferring two annual increments with cumulative effect was imposed. The accident took place in the year 1997. Therefore, at this point of time it is not desirable to remand back the matter to the appropriate authority to conduct fresh enquiry. Even otherwise, the learned counsel appearing for the petitioner requested this Court to modify the punishment to that of a minor penalty.

Having regard to the facts and circumstances of the case, the major penalty can be reduced to that of a minor penalty.

In the result, the writ petition is disposed of, modifying the punishment of deferment of two annual increments with cumulative effect to that of a penalty of deferment of one annual increment without cumulative effect. In the circumstances without costs.

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(K.C.BHANU, J)

08.07.2004
dr

To

1 The Depot Manager,APSRTC, Kurnool-I
Depot, Kurnool, Kurnool Dist.
2 The Deputy Chief Traffic Manager,
APSRTC, Kurnool Region Kurnool.

3 The Regional Manager,APSRTC,
Kurnool Region, Kurnool.

4 Two CD copies.